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Federal Communications Commission

FCC 98-320

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	CC Docket No. 98-108
Beehive Telephone Company, Inc.)	
Beehive Telephone, Inc. Nevada)	
)	Transmittal No. 11
Tariff F.C.C. No. 1)	

MEMORANDUM OPINION AND ORDER

Adopted: December 1, 1998

Released: December 1, 1998

By the Commission: Commissioner Furchtgott-Roth issuing a statement.

I. INTRODUCTION

1. In this Memorandum Opinion and Order, we conclude our investigation of Transmittal No. 11 filed on June 16, 1998 by Beehive Telephone Company, Inc. and Beehive Telephone, Inc. of Nevada (collectively "Beehive"). Beehive is a small company, with under one thousand access lines. We find that Beehive has failed to meet its burden of proof under Section 204(a)(1) of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 204(a)(1), to justify its proposed tandem switched transport facility, tandem switched transport termination, and transport interconnection charge (TIC) rates. We further find for the reasons discussed below that we are unable to rely on supporting information submitted by Beehive for the purpose of prescribing rates. We, therefore, prescribe rates for these services based on NECA's rates for these services. We direct Beehive to refund to its customers, with interest, the difference between NECA's rates and the rates filed by Beehive in June, 1998. Based on the inconsistent and irregular accounting practices we discovered in Beehive's cost support data, we further direct the Common Carrier Bureau (Bureau) to institute an investigation pursuant to Section 205 of the Act for purposes of determining whether Beehive is in violation of any part of the Act based upon its Part 32 accounting methodologies and entries, Part 64 cost allocation methodologies, and separations methodologies.¹

II. BACKGROUND

2. Prior to 1994, Beehive charged interstate local switching and transport rates filed by the National Exchange Carrier Association (NECA) on behalf of generally smaller incumbent local exchange carriers (LECs) that participate in NECA's traffic-sensitive access tariff. In 1994, Beehive established its own interstate access rates pursuant to Section 61.39 of the Commission's rules,² which

¹ 47 U.S.C. § 205.

² 47 C.F.R. § 61.39.

permits a LEC that qualifies as a small telephone company to file its own tariff or traffic sensitive interstate access charges under simpler rules than those that apply to larger carriers.³ This methodology generally permits qualifying LECs to base their rates for the next two access tariff years on their actual costs and demand during the previous two calendar years.

3. On July 22, 1997, Beehive filed Transmittal No. 6, which proposed the rates, terms, and conditions under which Beehive would offer interstate access service for the 1997-1999 access years.⁴ The Common Carrier Bureau suspended Beehive's tariff filing on August 5, 1997, concluding that it raised significant questions of lawfulness, including whether the proposed rates were unreasonably discriminatory in violation of Section 202(a) of the Act; whether the proposed rates were unjust and unreasonable in violation of Section 201(b) of the Act; and whether Beehive had shown that its proposed traffic sensitive switched access rates were justified under the existing interstate access charge rules.⁵

4. On January 6, 1998, we released the *Beehive Tariff Investigation Order, Transmittal No. 6*,⁶ concluding our investigation of the rates filed by Beehive in its 1997 annual access tariff. We found that Beehive had failed to provide an adequate explanation for the sharp increases in its operating costs in 1995 and 1996 and that its premium and nonpremium local switching rates were unjust and unreasonable.⁷ In that order, we disallowed Beehive's operating expenses in excess of 25 percent of its total plant in service (TPIS) and prescribed rates for Beehive's premium and non-premium local switching services.⁸ We calculated the average ratio of operating expenses to total plant in service among companies with a comparable number of access lines to Beehive in 1995 or 1996 using data filed with NECA.⁹ We found that the average total operating expense to total plant in service ratio among smaller LECs (of which NECA is largely comprised) with a comparable number of access lines as Beehive was 21.55 percent. To account for the possibility that Beehive is a

³ Small telephone companies are defined as those carriers with fewer than 50,000 access lines that also are part of NECA Subset 3, as defined by Section 69.602(a)(3) of the rules, 47 C.F.R. § 69.602(a)(3). See *Regulation of Small Telephone Companies*, CC Docket No. 86-467, Report and Order, 2 FCC Rcd 3811 (1987).

⁴ Beehive Access Tariff FCC No. 1, Transmittal No. 6, (filed July 22, 1997).

⁵ *Beehive Telephone Company, Inc. and Beehive Telephone, Inc. Nevada, Tariff F.C.C. No. 1, Transmittal No. 6*, CC Docket No. 97-237, Suspension Order, 12 FCC Rcd 11695 (1997).

⁶ *Beehive Telephone Company, Inc. and Beehive Telephone, Inc. Nevada, Transmittal No. 6*, CC Docket 97-237, Memorandum Opinion and Order, 13 FCC Rcd 2736 (1998) (*Beehive Tariff Investigation Order, Transmittal No. 6*).

⁷ *Beehive Tariff Investigation Order, Transmittal No. 6* at ¶¶ 14, 16.

⁸ *Beehive Tariff Investigation Order, Transmittal No. 6* at ¶ 25.

⁹ *Beehive Tariff Investigation Order, Transmittal No. 6* at ¶ 18.

high cost carrier, we used an expense to total plant in service ratio of 25 percent.¹⁰ We also directed Beehive to refund the difference between the actual local switching revenues that it obtained between August 6, 1997 and December 31, 1997 and the local switching revenues that it would have obtained during this period based on the rates prescribed by the Commission. Beehive filed a petition for reconsideration of the *Beehive Tariff Investigation Order* on February 5, 1998 seeking reconsideration of the rate prescriptions and the refund requirements. On May 6, 1998, we released the *Beehive Reconsideration Order*, which generally denied Beehive's petition in part but found that we should have used Beehive's total 1995/1996 interstate premium and non-premium local switching access minutes.¹¹

5. On December 17, 1997, Beehive filed Transmittal No. 8, which proposed to revise its interstate access service rates in accordance with the Commission's *Access Charge Reform Order*.¹² Beehive's Transmittal No. 8 proposed per minute switching rates of \$0.028252 for premium local switching and \$0.01815 for non-premium local switching.¹³ Beehive also proposed to reduce its local transport facility rates by approximately 20 percent, and to raise its local transport termination rates by approximately 50 percent. On December 30, 1997, the Bureau suspended Beehive's Transmittal No. 8 for one day and initiated an investigation into the lawfulness of Beehive's tariff filing.¹⁴

6. On March 13, 1998, the Bureau released the *Beehive Designation Order*, which designated for investigation whether Beehive's premium and non-premium local transport facility, local transport termination, and local switching rates filed in Transmittal No. 8 were just and reasonable. The Bureau directed Beehive to file additional supporting documentation for its actual demand and costs during recent years and designated many of the same issues that were the subject of the investigation of Beehive's 1997 annual access tariff.¹⁵ The Bureau also directed Beehive to provide detailed cost and accounting data for calendar years 1994, 1995, and 1996.¹⁶

¹⁰ *Beehive Tariff Investigation Order*, Transmittal No. 6 at ¶ 18.

¹¹ *Beehive Telephone Company, Inc. and Beehive Telephone, Inc. Nevada*, CC Docket No. 97-237, Order on Reconsideration, 13 FCC Rcd 11795 at ¶ 3 (1998) (*Beehive Reconsideration Order*).

¹² *Access Charge Reform Order*, CC Docket No. 96-262, First Report and Order, 12 FCC Rcd 15982 (1997) (*Access Charge Reform Order*). On December 23, 1997, AT&T Corp. (AT&T) filed a petition to suspend and investigate Beehive's tariff. See Petition of AT&T Corp. on Rate of Return LEC Tariff Filings at 6 (filed December 23, 1997) (AT&T Petition). On December 29, 1997, Beehive filed a response to AT&T's petition. See Letter from Russell D. Lukas, Attorney for Beehive, to Magalie Roman Salas, FCC, dated December 29, 1997.

¹³ Beehive Access Tariff FCC No. 1, Transmittal No. 8 (filed December 17, 1997).

¹⁴ *Tariffs Implementing Access Charge Reform, Beehive Telephone Company*, CC Docket Nos. 97-250 and 97-249, Memorandum Opinion and Order, 13 FCC Rcd 163 (1997) (*Access Charge Reform Suspension Order*).

¹⁵ *Beehive Telephone Company, Inc. and Beehive Telephone, Inc. Nevada*, CC Docket No. 97-249, Order Designating Issues for Investigation, 13 FCC Rcd 5142 (1998) (*Beehive Designation Order*, Transmittal No. 8).

¹⁶ *Id.* at 5146-5147.

7. On June 1, 1998, the Commission released a Memorandum Opinion and Order concluding its investigation of Beehive's Transmittal No. 8.¹⁷ In that Order, we found that Beehive failed to meet its burden of proof under Section 204(a)(1) of the Act, and further found that we could not rely on Beehive's support documentation for the purpose of prescribing rates.¹⁸ We therefore prescribed rates for the services set forth in Beehive's Transmittal No. 8 based on the industry averages for comparably sized smaller LECs. On September 28, 1998, the Commission summarily rejected Beehive's petition for reconsideration of *Beehive Tariff Investigation Order, Transmittal No. 8*.¹⁹

8. On June 16, 1998, Beehive filed Transmittal No. 11 proposing to revise its FCC Tariff No. 1 to establish rates for tandem switched transport facility, tandem switched transport termination, and transport interconnection (TIC) pursuant to the Commission's *Access Charge Reform Order*. Beehive also proposed increasing premium and non-premium local switching rates above prescribed levels. Beehive included cost and investment data for calendar years 1996 and 1997 in support of its filing. On June 30, 1998, the Bureau released the *Beehive Suspension Order* rejecting Beehive's proposed local switching rates and suspending that portion of the tariff that proposed tandem switched transport rates pursuant to the *Access Charge Reform Order*.²⁰ On October 7, 1998, the Bureau released the *Beehive Designation Order, Transmittal No. 11* designating for investigation Beehive's proposed rates for tandem switched transport facility, tandem switched transport termination, and TIC.²¹ The Order required Beehive to justify its rates. The Order also required Beehive to comply with our regulations as set forth in § 61.39(a) by providing explanations to apparent inconsistencies in Transmittal No. 11.²² As examples of such inconsistencies, Beehive was required to explain: (1) why it moved substantial amounts of its expenses from Utah to Nevada and from corporate operations and plant specific accounting categories to customer operations expense accounts; and (2) why it reported an increase of over 26 percent in net plant from Transmittal No. 8 to Transmittal No. 11. Beehive filed its Direct Case (Beehive Direct Case) on October 23, 1998. AT&T filed an opposition (AT&T Opposition) to Beehive's Direct Case on October 30, 1998. On November 6, 1998, Beehive filed a Rebuttal (Beehive Rebuttal).

¹⁷ *Beehive Telephone Company, Inc. and Beehive Telephone, Inc. Nevada*, CC Docket No. 97-249, Memorandum Opinion and Order, 13 FCC Rcd 12275 (1998) (*Beehive Tariff Investigation Order, Transmittal No. 8*).

¹⁸ *Beehive Tariff Investigation Order, Transmittal No. 8* at ¶ 1.

¹⁹ *Beehive Telephone Company, Inc. and Beehive Telephone, Inc. Nevada*, CC Docket No. 97-249, Memorandum Opinion and Order, FCC No. 98-241 (rel. September 28, 1998).

²⁰ *Beehive Telephone Company, Inc. and Beehive Telephone, Inc. Nevada*, CC Docket No. 98-108, Order, 13 FCC Rcd 12647 (1998).

²¹ *Beehive Telephone Company, Inc. and Beehive Telephone, Inc. Nevada*, CC Docket No. 98-108, Order Designating Issues for Investigation, DA 98-2030 (rel. Com. Car. Bur., October 7, 1998). (*Beehive Designation Order, Transmittal No. 11*).

²² *Beehive Designation Order, Transmittal No. 11* at ¶ 10.

III. PLEADINGS

A. Calculation of Proposed Tandem Switched Transport Rates and the TIC Rate

9. Beehive states that it calculated its tandem switched transport facility rates, tandem switched transport termination rates, and TIC rates on the basis of historical data for the years 1996 and 1997.²³ For each rate element under the old transport structure (premium and non-premium local transport facility and local transport termination), Beehive contends it multiplied its access minutes of use by NECA's tariffed rate to determine "an extended price." This sum was, according to Beehive, divided into Beehive's transport revenue requirement. Beehive multiplied the ratio from this calculation by NECA's rates for the new transport restructure elements. This produced Beehive's rates for those elements.²⁴

10. AT&T contends that Beehive failed to meet its burden of proof under Section 204(a)(1) of the Communications Act to show that its proposed rates are just and reasonable. The Commission, argues AT&T, should either prescribe rates as in Transmittal Nos. 6 and 8, or allow a partial authorization of Beehive's proposed rates.²⁵

11. Beehive contends that its rates are lawful and reasonable.²⁶ If, however, we decide to prescribe Beehive's rates, Beehive argues that we must make available to it the underlying data and calculations of the methodology so that Beehive can comment.

B. Increase of Interstate Net Plant for Beehive Nevada in 1996

12. Beehive admits that it reported an increase in interstate net plant from Transmittal No. 8 to Transmittal No. 11 of over 26 percent.²⁷ Beehive contends that this increase was the result of including the weighted dial equipment minutes (DEM) allocator, rather than the measured or unweighted DEM allocator in the development of the switching revenue requirement.²⁸ Beehive states that it has revised its rates using an unweighted DEM allocator, and set forth its revised rates in its Direct Case.²⁹

²³ Beehive Direct Case at 25.

²⁴ *Id.*

²⁵ AT&T Opposition at 8.

²⁶ Beehive Rebuttal at 5.

²⁷ Beehive Direct Case at 24.

²⁸ *Id.*

²⁹ *Id.*

13. AT&T contends that Beehive's cost support data does not support the position that the use of a weighted DEM allocator could account for Beehive's reported 26 percent increase in interstate net plant.³⁰ AT&T compared Beehive's original Transmittal No. 11 cost support data with revised cost support data filed by Beehive, and argues that the data supports less than a 3 percent increase. Therefore, states AT&T, Beehive has not adequately explained the 26 percent increase in interstate net plant.

14. Beehive states in its Rebuttal that AT&T wrongly assumed that the entire 26 percent increase in interstate net plant was associated with the incorrect use of the weighted DEM allocator.³¹ Beehive argues that the majority of the increase is attributable to additional plant being placed in service.³²

C. Movement of Expenses Between States and Accounts

15. In its Direct Case, Beehive argues that its Transmittal No. 11 does not have "the problems the Commission discovered in the Transmittal No. 8 documentation."³³ It contends that the Commission erred when it tentatively concluded that Beehive merely moved substantial expenses from Utah to Nevada and between different expense accounts.³⁴ The only substantial movement between accounts Beehive admits to was a reclassification of \$1,008,000 that it paid to JEI Enterprises, Inc. (JEI) in 1996 under a switching equipment lease. This reclassification was done by Beehive's auditor in concurrence with the investigation of Beehive's Transmittal No. 8.³⁵ Beehive states that the auditor examined the evidence supporting Beehive's classification of the 1996 expense as plant specific and corporate operating expenses, and reclassified it to Account 6610 (Marketing).³⁶ Beehive argues that the 1996 cost data for Transmittal No. 8 was based upon its pre-audit accounting records, and that subsequent adjustments "created the appearance" that it was transferring expenses between Beehive Utah and Beehive Nevada.³⁷ Beehive contends that the rates it filed with Transmittal No. 11 are based on costs that are properly recorded in accordance with Part 32. It contends that changes made

³⁰ AT&T Opposition at 7.

³¹ Beehive Rebuttal at 4.

³² See Beehive Rebuttal, Attachment 2.

³³ Beehive Direct Case at 20.

³⁴ *Id.*

³⁵ Beehive Direct Case at 21. As noted in the *Beehive Designation Order, Transmittal No. 11*, the auditor's statement only address the representativeness of the balance sheet and income statement, and does not address the validity of the cost support data or rate development material. *Id.* at ¶ 10.

³⁶ *Id.* at 22.

³⁷ *Id.* at 23.

to the 1996 accounting data to comply with Part 32 cannot be cited to as a cause for rejecting the cost support data for Transmittal No. 11.

16. Beehive contends that differences in reported 1996 operating expenses between Transmittal Nos. 8 and 11 show only that Beehive Utah's reported 1996 operating expenses decreased by \$173,409, while Beehive Nevada's increased \$40,969. Beehive contends that these differences are not significant.³⁸

17. AT&T argues that reclassification is not relevant, because Beehive has not justified the inclusion of these expenses in any account.³⁹ AT&T contends that Beehive ignored a Commission finding that the "lease agreement" between JEI and Beehive had "few of the normal terms and conditions of an operating lease," and that Beehive had "not provided any explanation for its relationship with JEI that would rebut concerns raised by its accounting treatment of JEI-related costs."⁴⁰ AT&T further argues that Beehive does not explain nor justify the decrease in Beehive Utah's 1996 operating expenses in the amount of \$173,409 or Beehive Nevada's 1996 increase in operating expenses of \$40,969.⁴¹

18. In its Rebuttal, Beehive argues that it fully addressed the Bureau's inquiries regarding changes in Beehive's reported expenses and accounts between Transmittal No. 8 and Transmittal No. 11.⁴² However, to "further clarify" its account adjustments, Beehive filed with its Rebuttal an attachment allegedly reconciling the adjustments made between Transmittal No. 8 and Transmittal No. 11. Further, Beehive contends that, contrary to AT&T's allegation, it did not ignore our findings with respect to the lease of switching equipment from JEI. Beehive argues that: (1) it did address the JEI issue in its Direct Case in detail; (2) reclassification of the JEI expenses were prompted by Commission inquiries with respect to the JEI lease; and (3) the Commission has never ruled that the JEI expenses were not fully recoverable if they were recorded in the appropriate expense account.⁴³

IV. DISCUSSION

19. Beehive has failed to meet its burden of proof under Section 204(a)(1) of the Act and does not justify its proposed tandem switched transport facility, tandem switched transport termination, and TIC rates. Further, we are unable to rely on supporting information submitted by Beehive for the purpose of prescribing rates and, therefore, prescribe rates for Beehive based on

³⁸ Beehive Direct Case at 21.

³⁹ AT&T Opposition at 6.

⁴⁰ AT&T Opposition at 6, citing from *Beehive Tariff Investigation Order, Transmittal No. 8*, 13 FCC Rcd at ¶ 15.

⁴¹ AT&T Opposition at 5.

⁴² Beehive Rebuttal at 3.

⁴³ *Id.*

industry averages that pertain to small LECs like Beehive, namely NECA's effective rates for these services.⁴⁴

20. Beehive's supporting cost evidence fails to justify the proposed rates. The filing of data without any explanation of how the rates at issue were calculated is of limited use to the staff or the Commission and does not permit the staff to properly evaluate whether the proposed tandem switched rates are just and reasonable. For example, under Beehive Transmittal No. 8, \$1.008 million was recorded as lease expense to JEI under the plant specific operations and corporate operations expense categories for Beehive Utah. Under Beehive Transmittal No. 11, the approximate \$1 million has been shifted to marketing expense with the explanation that this equipment is leased to "stimulate traffic to terminate on its system."⁴⁵ Beehive's auditor apparently determined that the equipment leased from JEI was not used by Beehive as telecommunications plant, and therefore reclassified it as a marketing expense. In this particular case, we find that Beehive's lease of equipment that is used, not to provide service to access customers, but to do something else that causes IXC's customers to make interexchange calls, thereby "stimulating traffic" to terminate on Beehive's system, is not an allowable marketing expense and may not be included in the rates that IXCs must pay to Beehive in order to terminate their customers' calls to numbers served by Beehive.

21. Beehive explains its alleged increase in interstate net plant for Beehive Nevada as an error in its jurisdictional separations procedures,⁴⁶ and states that it corrected its error in recalculated rates.⁴⁷ Part 36 specifies that tandem switching equipment costs that cannot be directly assigned to either the state or interstate jurisdiction are to be allocated between the jurisdictions based on relative minutes of use.⁴⁸ Beehive is required to use relative minutes of use rather than DEM to allocate joint investment. Beehive therefore improperly calculated its investment costs resulting in a shift of investment costs from the state to the interstate jurisdiction. This means that the investment in Beehive's cost data is overstated resulting in an overstated return component in its revenue requirement. Since related expenses normally "track" the investment, there is a strong possibility that switch-related interstate expenses are also overstated. Beehive provides revised rates but fails to show how the costs were used in calculating its revised rates. Once again, this is further evidence of what appears to be Beehive's ongoing practice of failing to explain its justifications for use of various data in the development of its access rates.⁴⁹

⁴⁴ See, e.g., *Tariffs Implementing Access Charge Reform*, CC Docket No. 97-250, 13 FCC Rcd 14686 (1998).

⁴⁵ Beehive Direct Case at 21-22.

⁴⁶ Beehive explains that it applied a weighted DEM allocation factor rather than a measured, or unweighted, DEM allocation factor.

⁴⁷ Beehive Direct Case at 24.

⁴⁸ 47 C.F.R. §36.124.

⁴⁹ In addition, regarding the shifting of expense between companies, Beehive attempts to explain that cost shifts between companies somehow result from allocations of joint costs, but its explanation is vague and unsupported by any facts. Beehive either failed to research the cause of the difference and is unaware of the specific

22. We find that Beehive's cost support data are unreliable, do not support its proposed rates, and cannot be used as a basis to prescribe rates for its tandem switched transport facility, tandem switched transport termination, and TIC charges. Despite our admonitions and findings in our two recent decisions concluding the investigations of Beehive's proposed interstate access charges,⁵⁰ Beehive has once again failed to provide the necessary data and explanations to support a proposed set of access charges. The data submitted by Beehive in its tariff filing are often unexplained and confusing. For example, Beehive provides no indication of what historical demand for tandem switch related charges was used in calculating its proposed tandem switch related rates. Other cost support data submitted by Beehive are similarly deficient. We therefore require Beehive to use the premium access rates set forth by NECA in its Tariff F.C.C. No. 5 (effective July 1, 1998) for its tandem switched transport facility, tandem switched transport termination, and TIC charges, until Beehive's next biennial access filing.⁵¹ Beehive must refund the difference between its filed rates and the NECA rates.

23. We also direct the Bureau to institute within 90 days after the release of this Memorandum Opinion and Order an investigation pursuant to Section 205 and other appropriate provisions of the Act for purposes of determining whether Beehive is in violation of any part of the Act based upon its: (1) Part 32 accounting methodologies and entries; (2) Part 64 cost allocation methodologies; and (3) separations methodologies.⁵² Further, on the basis of that investigation, we will determine whether further rate adjustments may be necessary or appropriate.

V. CONCLUSION AND ORDERING CLAUSES

24. For the reasons stated herein, **WE FIND** that the rates subject to this investigation and identified in this Order, of Beehive Telephone Company, Inc. and Beehive Telephone, Inc. Nevada are unlawful.

25. **IT IS ORDERED** that Beehive Telephone Company shall file tariffs within five business days of the release date of this Memorandum Opinion and Order, establishing the tandem switched transport facility, tandem switched transport termination, and transport interconnection charge rates prescribed herein.

26. Accordingly, **IT IS FURTHER ORDERED** that, pursuant to Sections 4(i), 201(b), 203, 204(a), and 205(a) of the Communications Act, 47 U.S.C. §§ 4(i), 201(b), 203, 204(a), 205(a), Beehive Telephone Company, Inc. and Beehive Telephone, Inc. Nevada **SHALL REFUND** to its customers with compounded daily interest, the difference between Beehive's filed rates and the rates

causes, or is unwilling to reveal the exact nature of the differences to the Commission. This provides additional evidence of Beehive's inconsistent and irregular accounting and cost allocation practices.

⁵⁰ See ¶¶ 4 and 7, *infra*.

⁵¹ See NECA F.C.C. Tariff No. 5, § 17.2.2. We will allow Beehive to charge a TIC based upon rate band 3, the highest rate allowed.

⁵² 47 U.S.C. § 205.

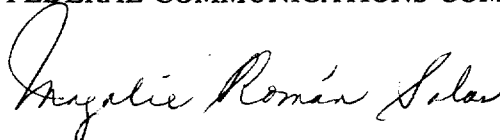
directed prescribed herein, from the effective date of the Beehive's tariff up to but not including the effective date of Beehive's tariff that is filed pursuant to this Memorandum Opinion and Order. Interest shall be computed on the basis of interest specified by the United States Internal Revenue Service.

27. **IT IS FURTHER ORDERED** that Beehive Telephone Company must submit its plans for issuing refunds to the Common Carrier Bureau for review and approval pursuant to our delegation of authority under Section 0.291 of the Commission's rules, 47 C.F.R. § 0.291, within 30 calendar days of the release date of this Memorandum Opinion and Order.

28. **IT IS FURTHER ORDERED** that pursuant to Section 204(a) of the Communications Act, 47 U.S.C. § 204(a), the investigation instituted by the Common Carrier Bureau in CC Docket No. 98-108 for Beehive Telephone Company, Inc. and Beehive Telephone, Inc. Nevada, Transmittal No. 11 **IS TERMINATED**.

29. **IT IS FURTHER ORDERED** that pursuant to Section 205 of the Communications Act, 47 U.S.C. § 205, the Common Carrier Bureau institute within 90 calendar days of the release date of the Memorandum Opinion and Order an investigation for Beehive Telephone Company, Inc. and Beehive Telephone, Inc. Nevada for purposes of determining whether Beehive is in violation of any part of the Act based upon its Part 32 accounting methodologies and entries, Part 64 cost allocation methodologies, and separations methodologies.

FEDERAL COMMUNICATIONS COMMISSION



Magalie Roman Salas
Secretary

**SEPARATE STATEMENT OF
COMMISSIONER HAROLD FURCHTGOTT-ROTH**

Re: *Beehive Telephone Company, Inc., CC Docket 98-108*

While I join in today's Order, I write separately to express my concern with the Commission's decision-making process. This item has a five-month statutory deadline of today, but was not circulated until last Wednesday. I am becoming increasingly concerned that the Commission's internal procedures that typically limit the majority of Commissioners' input until after an item has been fully drafted and presented is not only precluding full consideration of important issues by the entire Commission in a timely manner, but ultimately delaying the decision-making process. Indeed, in such a rushed environment, the Commission may not be having an opportunity to fully appreciate the broader ramifications of their actions, which may cause further delay in subsequent Orders dealing with related issues.¹ I look forward to working with my colleagues to attempt to rectify this situation.

¹ See e.g., GTE Tel Operating Company Transmittal No 1148, CC Docket 98-79, Memorandum and Opinion and Order (rel. October 30, 1998) (GTE DSL Order).